

Aarhus Convention Compliance Committee

Communication Monitoring Report

ACCC/C/2012/69 Romania

Justice and Environment 2012

Aarhus Convention Compliance Committee

Communication Monitoring Report

MONITORING REPORT

31 December 2012

Justice and Environment (J&E) together with Greenpeace CEE Romania and Center for Legal Resources (CRJ) had submitted a communication to the Aarhus Convention Compliance Committee against the State of Romania in 2012. This Monitoring Report summarizes the actions and reactions made in the case, and gives an evaluation of the procedural steps from the viewpoint of the communicant J&E.

Case number	ACCC/C/2012/69
Party concerned	Romania
Articles of AC concerned	4(1) and 4(2), 6, 9(4)
Summary of the case	

The communication alleges that the documentation for the environmental impact assessment (EIA) process concerning the Rosia Montana gold cyanide mining project is not complete, because documents relating to some archeological monuments were not available for members of the public to consult.

In addition, the communication alleges that the communicant requested information on those monuments and also on the exploration/exploitation licenses, but was denied access. This according to the communication is not in compliance with art. 4 and 6 of the Convention.

In addition, the communication alleges non-compliance by the Party concerned with art. 9(4) because judicial procedures may take very long to reach an outcome.

The following developments have happened in the case:

- | | |
|----------------------|--|
| 13 March 2012 | The communication was officially filed by the communicants. |
| 19 March 2012 | The receipt of the communication was formally acknowledged. |
| 30 March 2012 | The communication was preliminarily determined admissible at the 36 th session of the ACCC. The Committee first sorted out if there are any excluding factors, e.g. the communication is anonymous or it is manifestly unreasonable. After establishing that such excluding factors do not exist, the Committee has preliminarily found that the matter raised by the communicants is not irrelevant and fall under the scope of the AC. Romania was also bound by the AC at the time of the contested actions, which were after 30 October 2001. |

8 May 2012

The communication was forwarded to Romania and the latter was asked to submit any statement or explanation regarding the communication no later than 8 October 2012. Two specific questions were asked from the State of Romania:

- how long do access to environmental information cases last including two levels of court procedures, on an average?
- why are all mineral resources exploration and exploitation licenses classified as service secrets?

At the same time, a letter was also addressed to the communicant, asking the following questions:

- what is the current status of the Rosia Montana project in Romania?
- have the communicants complained about the deficiencies of the EIS documentation of the project and with what outcome?
- how missing information in the EIA process influences decision-making on the project?
- how long do access to environmental information cases last including two levels of court procedures, on an average?

5 October 2012

Romania responded to the communication in a 17-page long submission. The points of the reply are the following:

- the communication falls under an excluding criteria, i.e. it is irrelevant for the subject matter of the AC: the requested information by the communicants do not belong to the EIA procedure of the Rosia Montana project;
- describes in a very detailed manner the legislation applying to EIA projects;
- describes also the facts of the national case in a detailed manner;
- claims that the information the communication challenges should not be part of the EIA documentation (list of archeological sites in and around Rosia Montana);
- responds to the allegations of the communication and claims that they are not substantiated;
- claims that the court procedures for access to environmental information are not unreasonably lengthy, also taking into account the criteria applied by the European Court of Human Rights in its extensive case law.

8 October 2012

The communicants responded to the questions of the ACCC as follows:

- the newly complemented EIA report is under consideration by the competent authority;
- the information on the archeological sites to be prospectively destroyed during mining operation helps the clear decision-making in light of the full environmental impacts of the proposed project;
- it takes an average of two years to finish an access to environmental information case before the courts.

Conclusion

According to the evaluation of the J&E Aarhus Convention topic team,

- the case proceeds in a good speed and decision-making in the case is expected to be completed in the first half of 2013
- parties to the proceeding answer timely to the questions of the ACCC
- responses remain focused on the merits of the case and do not constitute purposeful defamation of the adversary parties
- there is a good chance comparing the original communication, and the responses of the communicant and the State of Romania that the original claim will be accepted by the ACCC.

Contact information:

name: dr. Csaba Kiss
organization: J&E
address: 1076 Budapest, Garay u. 29-31.
tel/fax: 36 1 3228462/36 1 4130300
e-mail: info@justiceandenvironment.org
web: www.justiceandenvironment.org

The Work Plan of J&E has received funding from the European Union through its LIFE+ funding scheme. The sole responsibility for the present document lies with the author and the European Commission is not responsible for any use that may be made of the information contained therein.

